

Santa Clara University

Online Trespass to Chattels: A Failed Experiment

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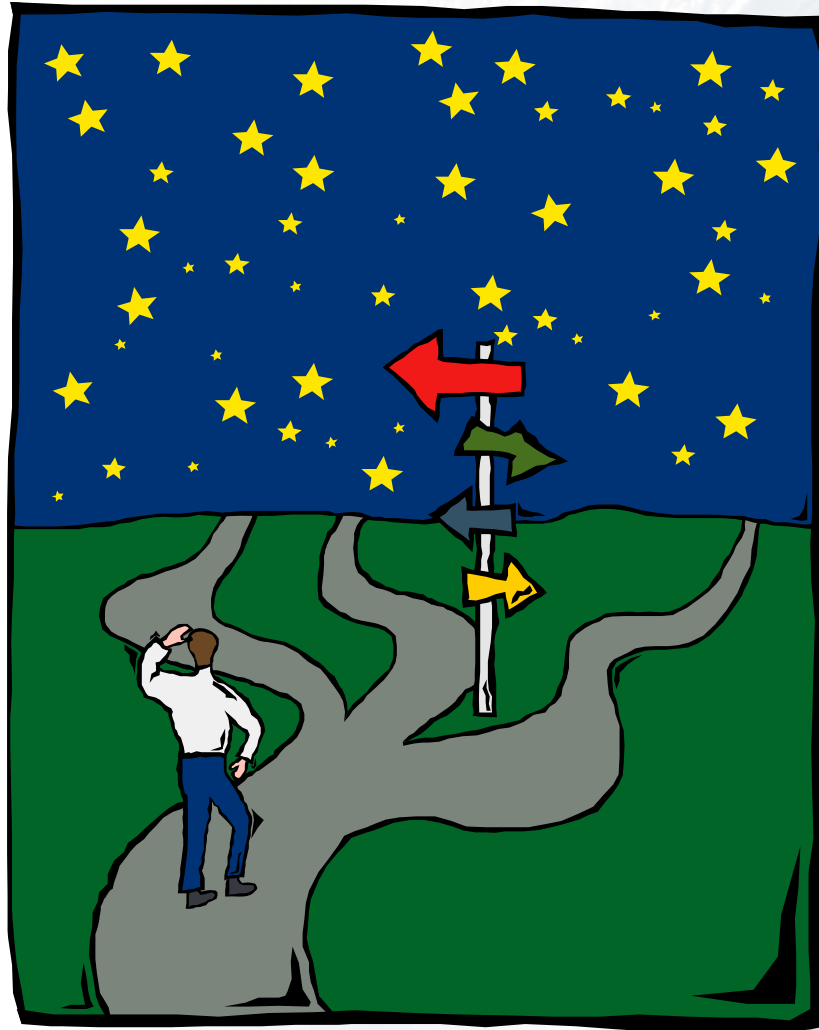
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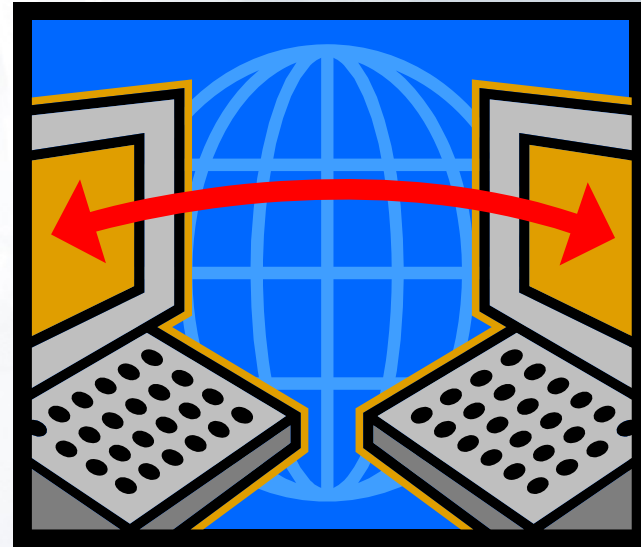
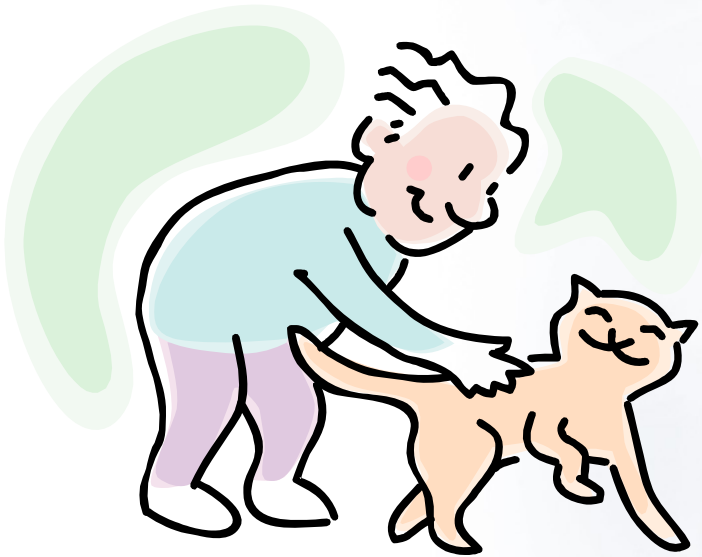
The Jesuit university in Silicon Valley



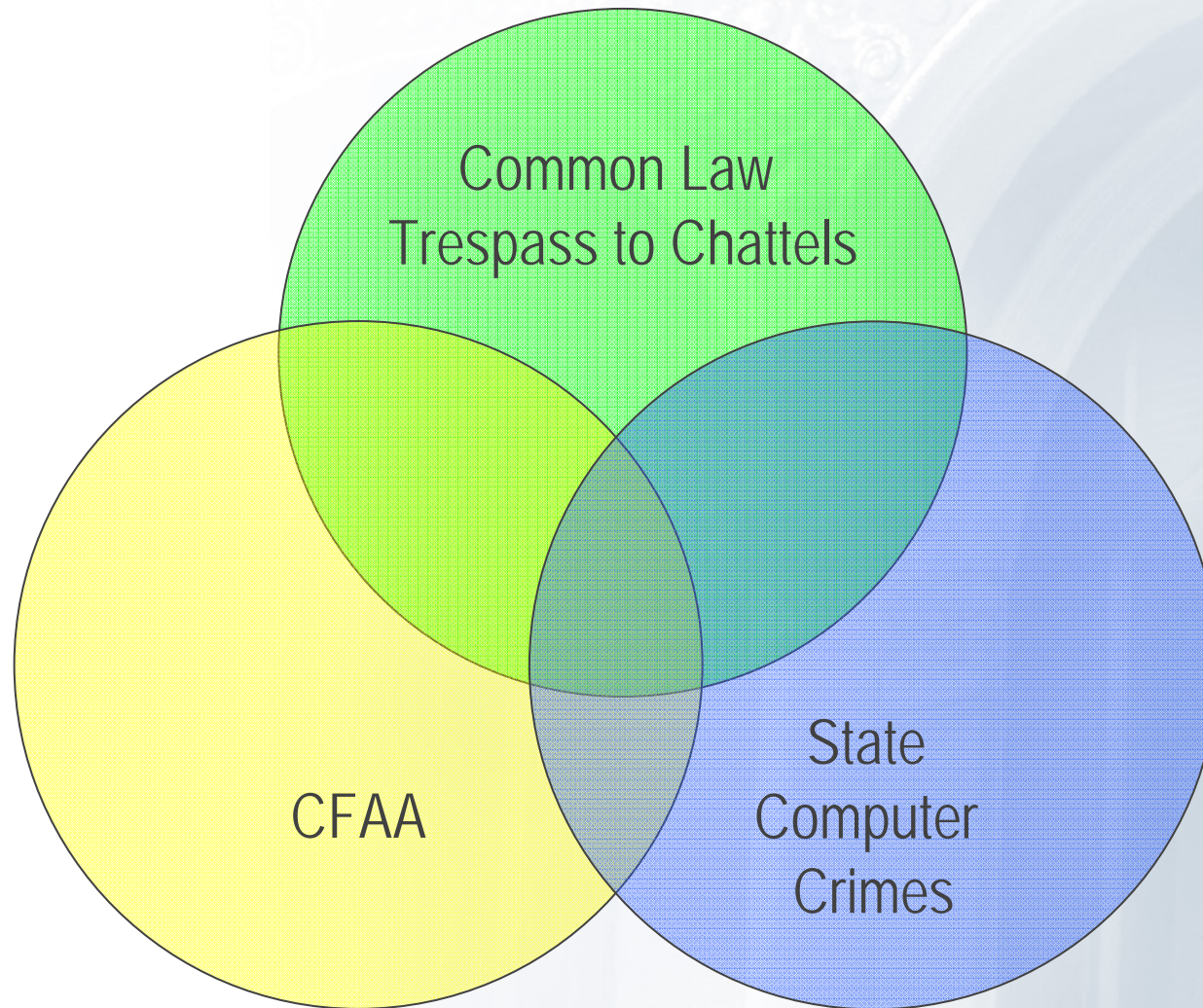
My Goal



What is Online Trespass to Chattels?



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How We Got Here



How We Got Here

Thrifty-Tel v. Bezenek (1996)



CompuServe v.
Cyber Promo (1997)



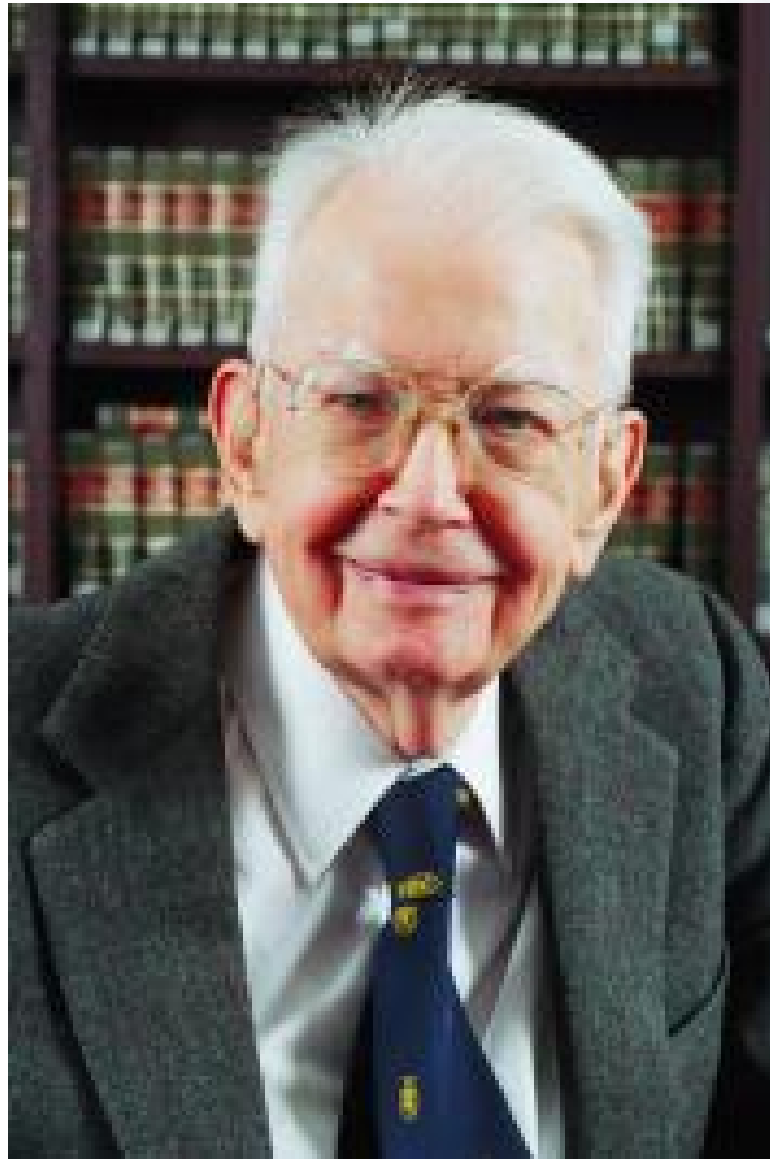
What Does Online TTC Cover?

- Network intrusions
 - “Hacking”
 - Server use without permission
- Denial-of-service attacks
- Spamming
- Scraping
- Client use without permission?
- Computer-mediated employee misappropriation?

What's Wrong With Online TTC?

- Computer exceptionalism
- Overcriminalization
- Inconsistent/incoherent harm standards
- Doctrinal overlaps
- Suppression of competition

What Should We Do? (1)



What Should We Do? (2)

- In general, rely on
 - Contract bargaining
 - Technological controls
 - Doctrinal overlaps
- Possible exceptions
 - Hacking
 - Denial-of-service

Where to Find Me

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